



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
TAMPA REGULATORY OFFICE
PO BOX 19247
TAMPA, FLORIDA 33686-9247

Regulatory Division
South Permits Branch
West Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2004-8551-JPF NOV 6 2004

TO WHOM IT MAY CONCERN: This district has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) as described below.

APPLICANT: MSD-Mattie, LLC
P.O. Box 7530
Winter Haven, FL 33883

WATERWAY & LOCATION: The proposed project is located east of the intersection of I-4 and S.R. 559 in Section 10, Township 27 South, Range 25 East, Polk County, Florida. The project site discharges to the east through off-site wetlands into the Green Swamp. The project is within the Withlacoochee River watershed.

DIRECTIONS TO SITE: From Tampa, take I-4 east to S.R. 559, turn east at truck stop just south of the interstate and proceed to site.

LATITUDE & LONGITUDE: Latitude 28°09'15.8" North
Longitude 81°47'29.25" West

PROJECT PURPOSE:

Basic: The applicant proposes to construct an RV resort with a boat ramp and associated parking area, access road, vehicle turnaround, dock, and boardwalk.

Overall: The applicant proposes to construct a 271-lot RV resort with a boat ramp and associated parking area with five spaces, access road, vehicle turnaround, dock, and boardwalk within north central Polk County.

PROPOSED WORK: The applicant proposes to fill 0.96 acre of wetlands for construction of a boat ramp, access road to the ramp, parking area with five spaces, and a vehicle turnaround. The impact includes 0.35 acre of forested and 0.61 acre herbaceous wetlands. The applicant also proposes to construct a boardwalk off of the fill area. The boardwalk will shade 0.23 acre of wetlands. The applicant did not provide an alternatives analysis for the project. The applicant states that the location of the work in wetlands was selected to minimize the length of the fill pad across wetlands. The applicant did not provide an explanation for why construction of the parking spaces and vehicle turnaround in the uplands is not practicable. The applicant has offered the following compensatory mitigation for consideration if it is determined that issuance of a permit is appropriate. Mitigation for the loss of wetland function will be provided by through on-site creation of 0.94 acre of forested wetlands and 0.85 acre of herbaceous wetlands, as described in the attached plan. The applicant did not provide a functional analysis of the impacts and mitigation using a Corps-approved methodology such as WRAP.

EXISTING CONDITIONS: The majority of the property is a cleared upland area that was formerly a citrus grove. I-4 borders the property to the north. The eastern edge of a large bay swamp runs along the west side of the property. Lake Mattie is on the south side of the project site. The bay swamp continues east along the shoreline of the lake, gradually transitioning into an herbaceous system. The area to the east includes additional uplands and lakeside wetlands. The impact area is within the transition zone between forested and herbaceous wetlands along the shoreline. On the forested side, the wetland is sparsely vegetated by slash pine, sweet bay, dahoon holly, red maple, and swamp tupelo. The ground cover within the forested and herbaceous wetland areas is diverse, including maidencane, softrush, sedges, pickerelweed, pennywort, and other species. There is approximately 10% cover by exotic and nuisance species such as elephant ear, torpedo grass, alligator weed, blackberry, and primrose willow. The rest of the site includes the remaining wetlands on either side of the project on the south side, the bay swamp along the west side mentioned above, and the cleared uplands that were formerly in citrus.

ENDANGERED SPECIES: The applicant provided results from wildlife surveys. The applicant states that numerous gopher tortoise burrows were found within the uplands. Gopher tortoise burrows

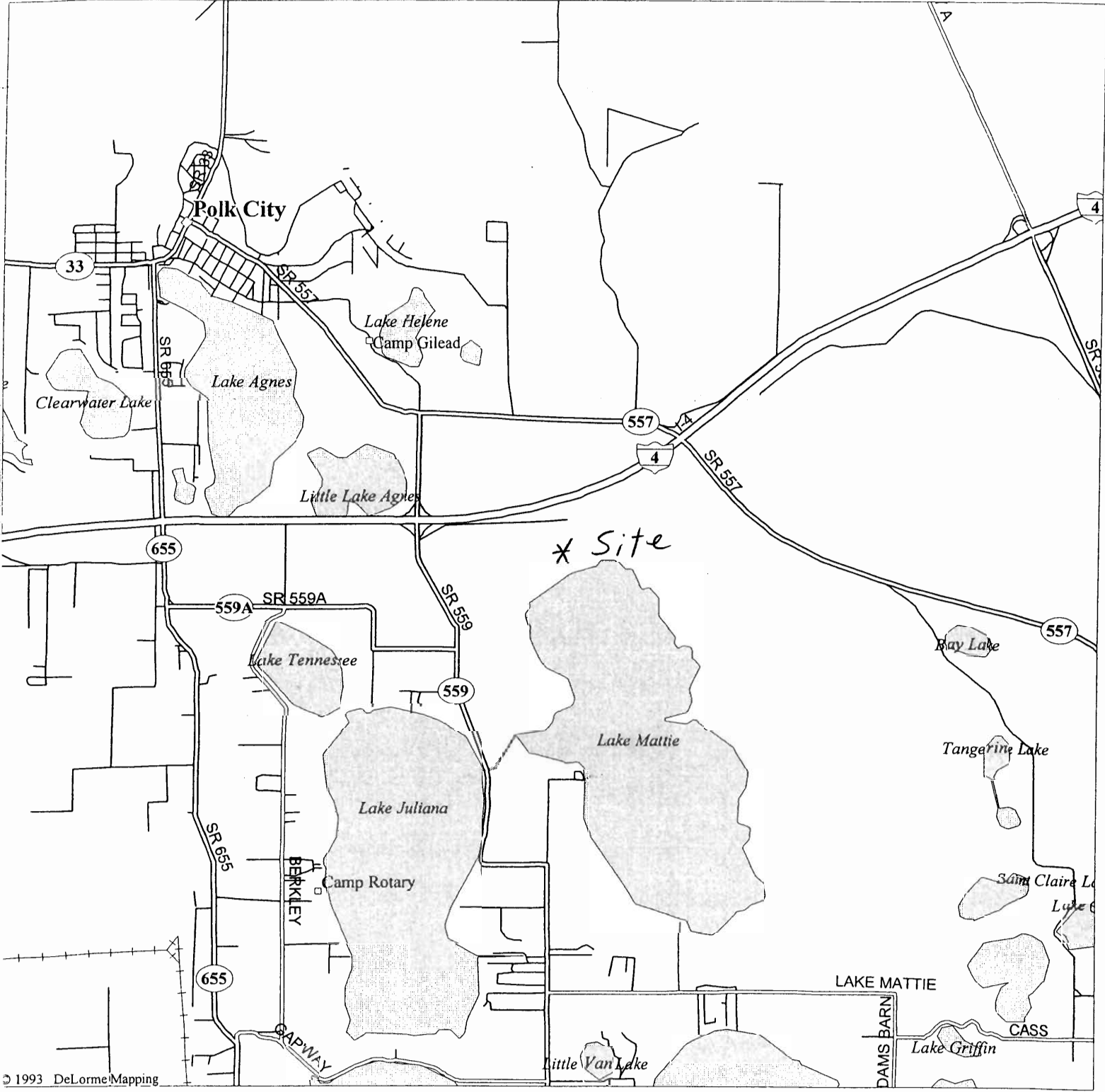
may serve as habitat for the eastern indigo snake. The applicant did not provide a plan to minimize the potential for impacts to the eastern indigo snake, such as implementing standard protection measures. There is a bald eagle nest on the west side of the property. The applicant states that they do not propose any special consideration for the bald eagle nest, due to the expected de-listing of the bald eagle. There are wood stork colonies within an 18-mile radius of the project site, however the applicant is proposing on-site mitigation. The U.S. Army Corps of Engineers (Corps) has determined the proposed project may affect the indigo snake and the bald eagle, and may affect but is not likely to adversely affect the wood stork or its critical habitat, and has requested consultation as defined under Section 7 of the Endangered Species Act from the U.S. Fish and Wildlife Service in a separate letter.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified. Corps personnel have not verified the jurisdiction line as shown on the attached drawings.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the State Department of Environmental Protection and/or one of the state Water Management Districts. The Southwest Florida Water Management District is reviewing Environmental Resource Permit application number 43027466.003.

Comments regarding the application should be submitted in writing to the District Engineer at the above address within 30 days from the date of this notice.

If you have any questions concerning this application, you may contact John Fellows at the letterhead address, by electronic mail at john.p.fellows@saj02.usace.army.mil, by fax at (813)840-2123, or by telephone at (813)840-2908, ex. 230.



- LEGEND**
- Population Center
 - State Route
 - Geo Feature
 - Interstate, Turnpike
 - Street, Road
 - Hwy Ramps
 - Major Street/Road
 - State Route

- Interstate Highway
- River
- Open Water

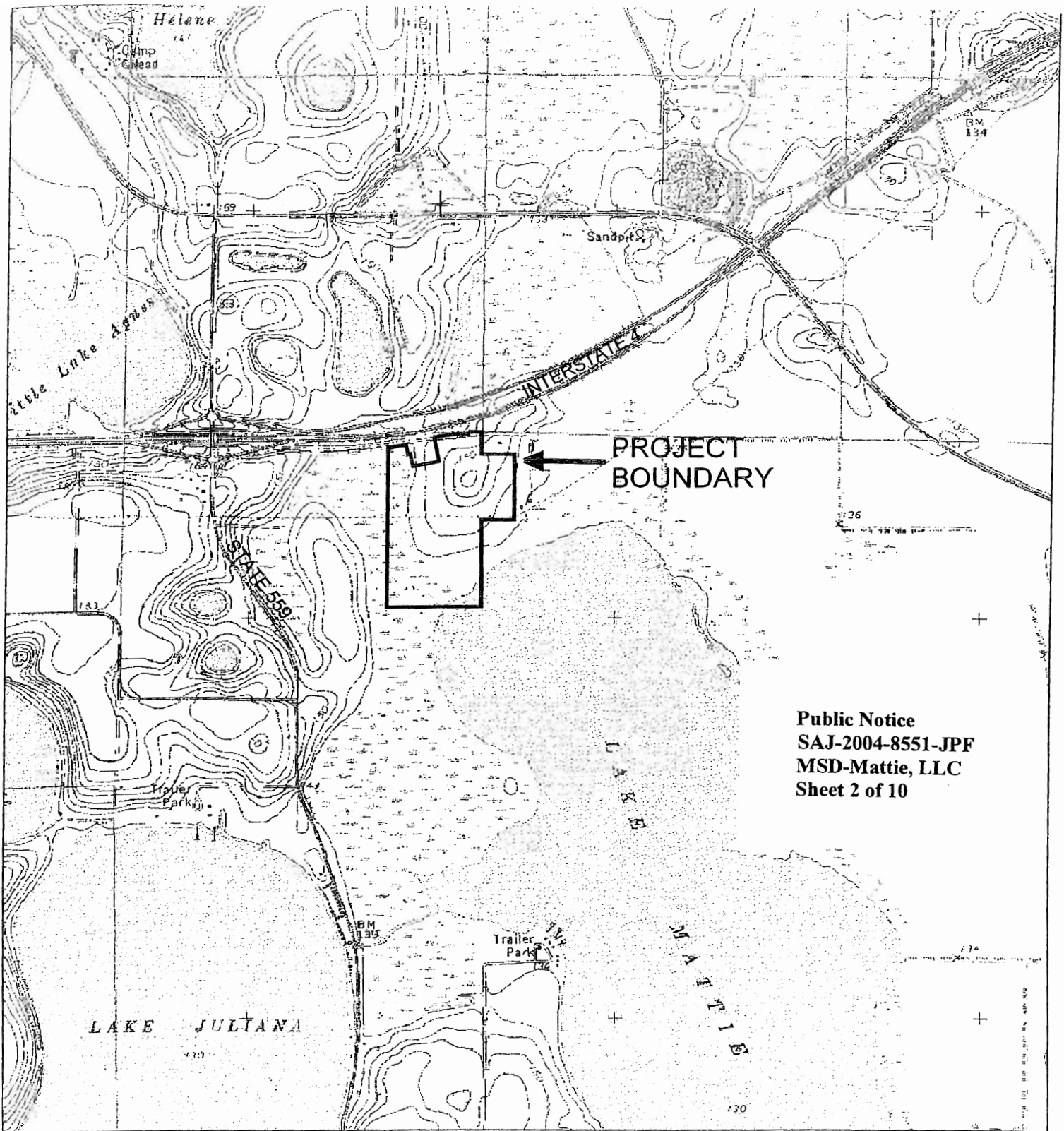
Scale 1:50,000 (at center)

5000 Feet

1000 Meters

DA File #SAJ-2004-8551-JPF/Bay Lake
Mag 13.00
Tue Oct 26 15:30:50 2004

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MSD-Mattie, LLC
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REFERENCE: BASE MAP TAKEN FROM USGS 7.5 MINUTE QUADRANGLE
POLK CITY, 1987.

COORDINATES FOR PROJECT: Lat N 28 deg 9.3 min., Long W 81 deg 47.4 min

SCALE



BAY LAKE RESORT - LAKE MATTIE

ENVIRONMENTAL ASSESSMENT FOR ERP APPLICATION
SECTIONS 10 AND 11 (T27S, R25E), POLK COUNTY, FLORIDA

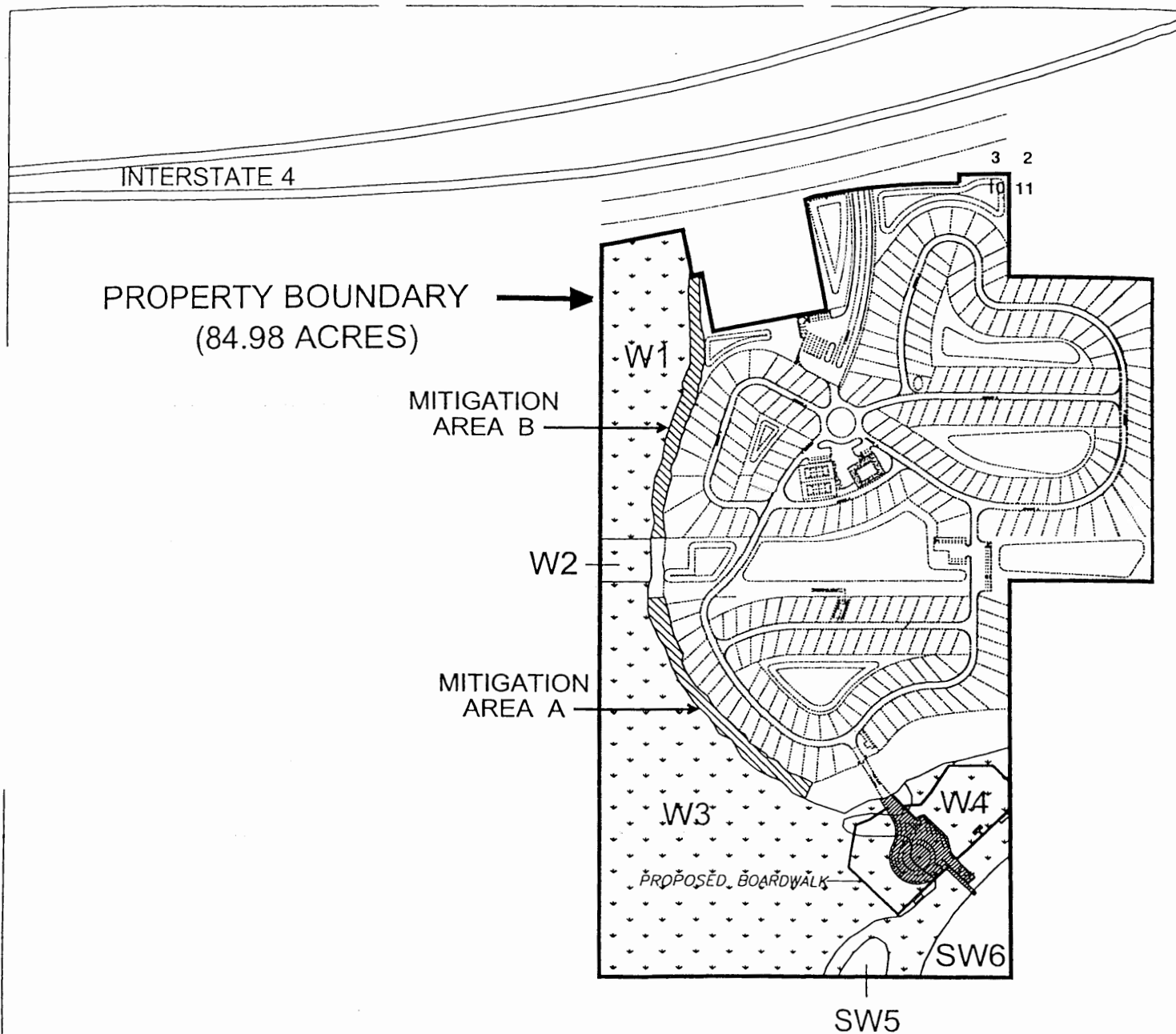
BY: RUESCH ENVIRONMENTAL SERV., INC. DATE: 06/25/04

FILE: 2-USGS.DWG




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FIGURE 2

USGS TOPOGRAPHIC MAP



LEGEND:

-  EXISTING WETLANDS
-  WETLANDS TO BE IMPACTED
-  PROPOSED WETLAND CREATION AREAS
(AREA A IS 0.94 AC. FORESTED; AREA B IS 0.85 AC. HERBACEOUS)

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MSD-Mattie, LLC
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SCALE



NOTES:

1. WETLAND BOUNDARIES HAVE BEEN FLAGGED, SURVEYED, AND APPROVED BY SWFWMD. FIELD INSPECTION CONDUCTED BY JARROD BONNICK ON MARCH 17, 2004.
2. DIGITAL ORTHO PHOTOGRAPH OBTAINED FROM CITY OF LAKELAND, FLIGHT DATE SEP. 2001.
3. DRAWING BASED UPON SITE PLAN PROVIDED BY PICKETT & ASSOC., INC.

BAY LAKE RESORT - LAKE MATTIE

ENVIRONMENTAL ASSESSMENT FOR ERP APPLICATION
 SECTIONS 10 AND 11 (T27S, R25E), POLK COUNTY, FLORIDA

BY: RUESCH ENVIRONMENTAL SERV., INC.

DATE: 07/17/04

FILE: 4-SITE-PLAN.DWG

REVISED:

FIGURE 4
SITE PLAN

INTERSTATE 4

PROPERTY BOUNDARY

18.93 ACRES

MITIGATION
AREA B

Upland

MITIGATION
AREA A

WETLAND NUMBER	WETLAND TYPE	PROPOSED IMPACTS (ACRES)	TYPE OF IMPACT
W1	BAY SWAMP	0.00	--
W2	HERBACEOUS	0.00	--
W3	BAY SWAMP	0.35	FILL
W3	BAY SWAMP	0.08	SHADING
W4	HERBACEOUS	0.61	FILL
W4	HERBACEOUS	0.15	SHADING
W5	OPEN WATER	0.00	--
W6	OPEN WATER	0.00	--
TOTAL		1.19	

LEGEND:



EXISTING WETLANDS



WETLANDS TO BE IMPACTED



PROPOSED WETLAND CREATION AREAS
(AREA A IS 0.94 AC. FORESTED; AREA B IS 0.85 AC. HERBACEOUS)



SCALE



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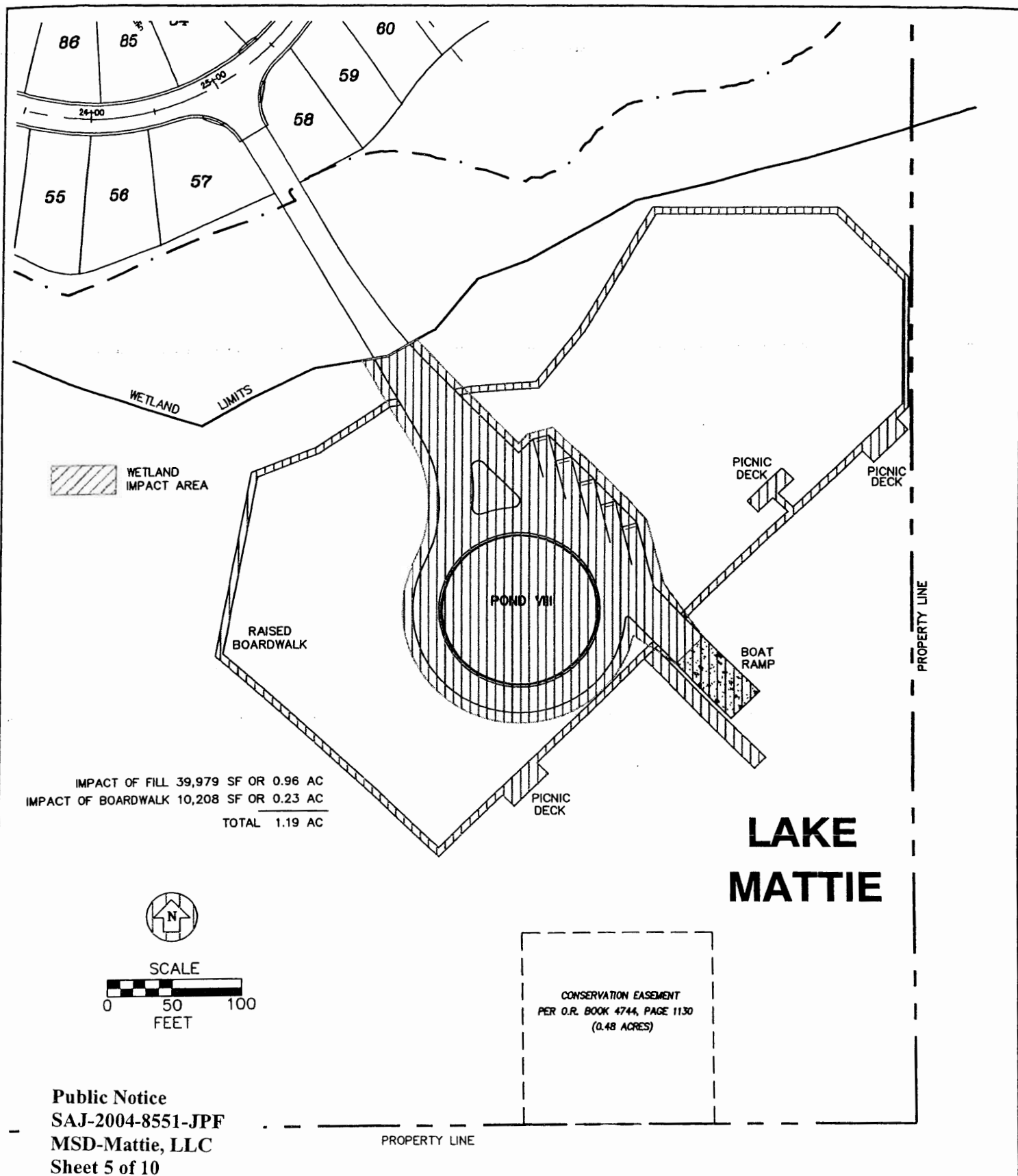
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FIGURE 5
WETLAND IMPACTS
AND MITIGATION

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BY: RUESCH

FILE: 5-WE



BAY LAKE RESORT – LAKE MATTIE

ENVIRONMENTAL ASSESSMENT FOR ERP APPLICATION
 SECTIONS 10 AND 11 (T27S, R25E), POLK COUNTY, FLORIDA

BY: PICKETT & ASSOC., INC.

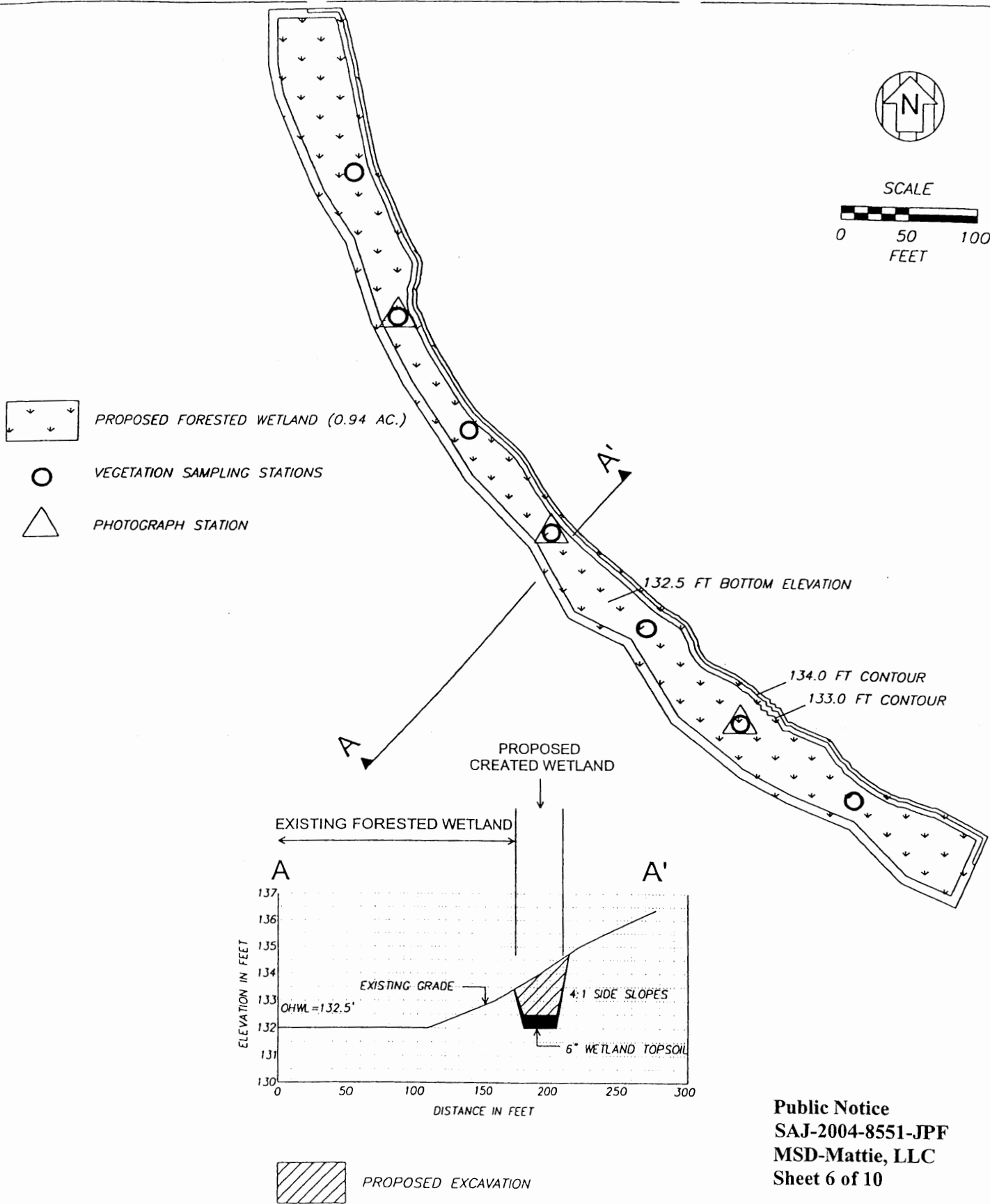
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FILE: WETLAND IMPACT SKETCH.DWG

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FIGURE 7

WETLAND IMPACT AREA DETAIL



BAY LAKE RESORT - LAKE MATTIE

ENVIRONMENTAL ASSESSMENT FOR ERP APPLICATION
 SECTIONS 10 AND 11 (T27S, R25E), POLK COUNTY, FLORIDA

BY: RUESCH ENVIRONMENTAL SERV., INC.

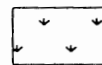
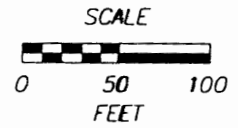
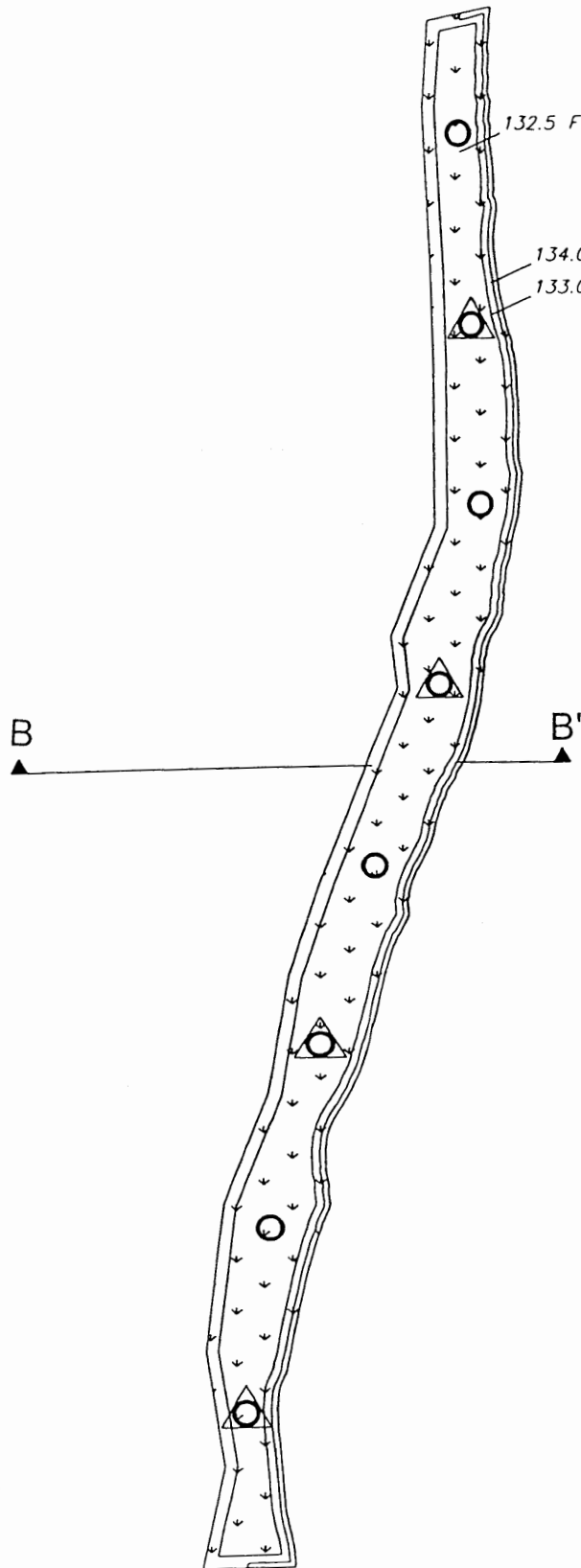
DATE: 07/17/04

FILE: 7a-MITIGATION-DETAILS.DWG

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FIGURE 7a

MITIGATION AREA A - DETAILS



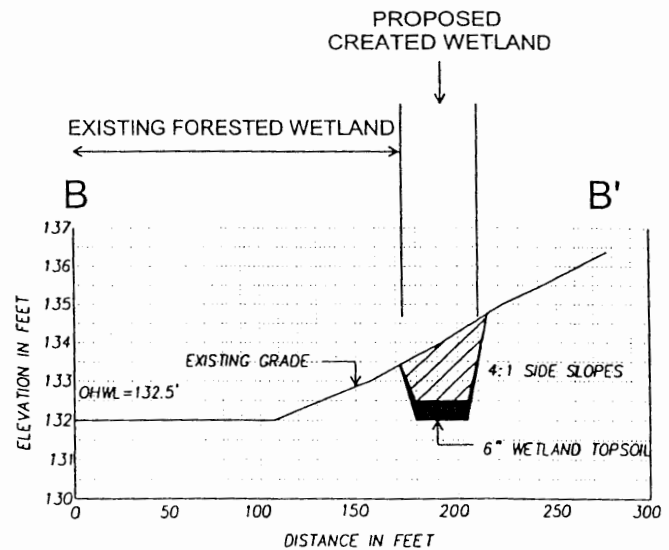
PROPOSED HERBACEOUS WETLAND (0.85 AC.)



VEGETATION SAMPLING STATIONS



PHOTOGRAPH STATION



PROPOSED EXCAVATION

BAY

ENVIRO
SECTIONS

BY: RUESCH &
FILE: 7a-MITIG

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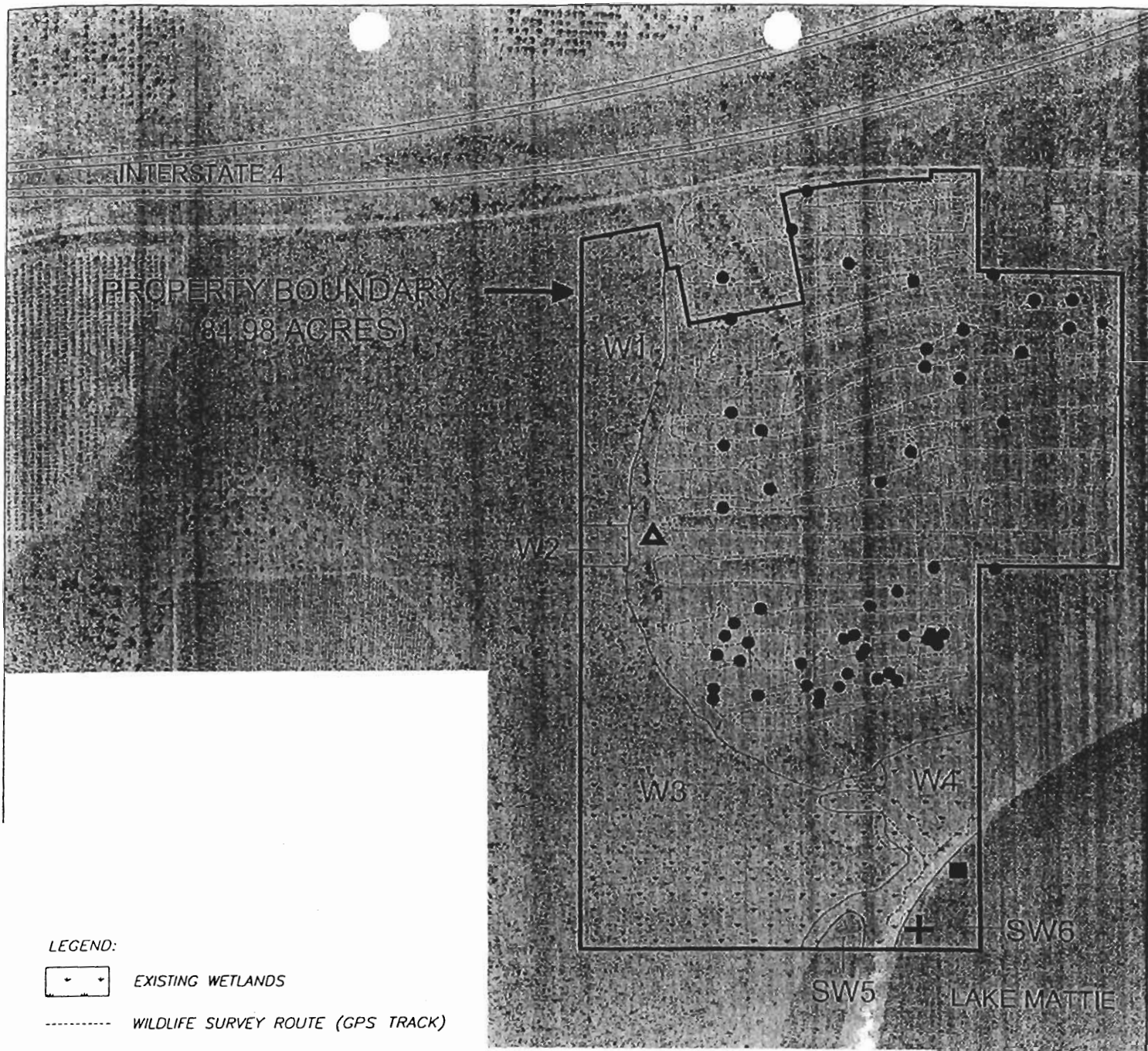
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RP APPLICATION
COUNTY, FLORIDA

DATE: 07/17/04

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FIGURE 7b
MITIGATION AREA B - DETAILS



LEGEND:



EXISTING WETLANDS



WILDLIFE SURVEY ROUTE (GPS TRACK)



GOPHER TORTOISE BURROWS (FLAGGED, NUMBERED, AND LOCATED WITH GPS)



ACTIVE BALD EAGLE NEST



TRICOLORED HERON AND LITTLE BLUE HERON - ONE EACH OBSERVED



AMERICAN ALLIGATOR - ONE OBSERVED



SCALE



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Florida Wildlife Management Bureau

DATE: 5/25/04

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MSD-Mattie, LLC
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MATTIE

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FIGURE 6

SURVEY FOR LISTED WILDLIFE

4.0 PROPOSED WETLAND MITIGATION PLAN

4.1 MITIGATION GOAL

The purpose of the proposed mitigation is to offset the adverse impacts to wetlands caused by the project. This will be done through on-site wetland creation, creating wetlands similar to those that are to be impacted. The created wetlands will be adjacent to the wetlands to be impacted. The location should assure that the mitigation areas will provide viable and sustainable ecological functions, similar to the wetlands to be impacted. The Uniform Mitigation Assessment Method (UMAM) (Ch. 62-345 F.A.C.) was used to assess the functions provided by the wetlands, the functional loss due to the project, and the amount of mitigation needed to offset that loss.

The completed UMAM forms in Attachment A provide the majority of the information to assess the wetland impacts and proposed mitigation. Provided below is additional information to supplement those forms.

4.2 MITIGATION SUMMARY

The results of the UMAM calculations in Attachment A indicate that 1.41 acres of mitigation is required. The mitigation area will be increased by 0.38 acres to 1.79 acres, to compensate for flood storage retention volume. The increased mitigation should also offset the potential shading impacts of the proposed boardwalk (see below).

Two wetlands comprising 1.79 acres will be created immediately landward of wetlands W1 and W3 (Figure 5). The created wetlands will include a forested area (0.94 acres) and a herbaceous area (0.85 acres). The herbaceous vegetation in both areas will be established primarily by mulching with six inches of fresh wetland topsoil (including herbaceous plant material, roots, and seeds) taken from the impact area. Additional herbaceous plant material will be planted if needed. Trees and shrubs that are similar to the impact area will be planted in the forested area at densities of 600 trees/acre and 100 shrubs/acre. The size of trees and shrubs will be 50% one-gallon stock, 25% three-gallon stock, and 25% seven-gallon stock. It is expected that the planted trees can reach the same average size of the trees in the impact area within 10 years, since the trees in the impact area are relatively small. The planting plan for the created wetland is provided in Table 4.

The bottom elevation of the created wetlands will be 132.5 feet, which is similar to the average elevations in the impacted wetland (see cross-sections on Figures 7a and 7b). The primary water source to the mitigation areas will be the high water table due to the adjacent lake (OHWL of 132.5 ft). Therefore, the final bottom elevation of 132.5 feet should provide reasonable assurance that the mitigation area will have a sustainable hydroperiod similar to the wetland impact area.

4.3 MITIGATION FOR SHADING FROM BOARDWALK

The UMAM forms are not well designed to account for shading impacts. It is likely that some type of desirable wetland vegetation can grow beneath the elevated boardwalk and that the boardwalk would not likely reduce the functional scoring for landscape support or water environment. Even if the boardwalk reduced the vegetation scores by a value of four (say from a 8 to a 4) the net result would only be an additional Functional Loss (FL) of 0.03 units $[(4/30) \times 0.23 \text{ ac}]$. Therefore, the additional 0.38 acres of created wetland should be sufficient to offset potential impacts from shading.

4.4 MONITORING AND MAINTENANCE

The created wetland will be quantitatively monitored semi-annually. Parameters to be measured include tree density, canopy cover, tree height, shrub cover, and cover of herbaceous species (wetland, upland, or nuisance/exotic). Stations will be permanently marked and will be distributed evenly through the mitigation areas. The preliminary location of sample plots is shown on Figures 7a and 7b.

Monitoring reports will be submitted annually and will include a tabular summary of the quantitative sampling results, a description of work completed since the last monitoring period, a description of work anticipated, a description of problems encountered, and corrective action needed.

Nuisance species (e.g. cattail, primrose willow) will be treated on an as-needed-basis. The intent of the maintenance program will be to remove all troublesome species that may spread quickly and hinder the establishment of desirable native wetland vegetation.

The mitigation will be considered successful when the permit criteria have been met continuously for a period of one year without intervention in the form of irrigation, removal of undesirable vegetation, or replanting of desirable vegetation.

4.5 MITIGATION COST ESTIMATE

A cost estimate for the proposed mitigation plan is provided in Table 5. Proof of financial responsibility will be required since the cost of mitigation is estimated to exceed \$25,000. The applicant will provide a draft document of the required financial responsibility after the District approves the mitigation plan.

IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

IMPACT ON CULTURAL RESOURCES: Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible or inclusion therein, are located at the site of the proposed work. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The U.S. Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.


John R. Hall
Chief, Regulatory Division